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FEDERAL REPUBLIC OF YUGOSLAVIA

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I. BASIC DEMOGRAPHIC, ECONOMIC AND SOCIAL DATA

1. The Federal Republic of Yugoslavia is comprised of its member republics Serbia and Montenegro. It lies in the south-east of the European continent and in the central part of the Balkan peninsula, covering 102,173 sq. kilometres. Geographically, the Federal Republic of Yugoslavia is a Balkan, Central-European, Mediterranean and trans-Danubian country. It borders on eight states: Hungary, Romania, Bulgaria, Albania, Italy and on the former Yugoslav republics of Bosnia-Herzegovina, Croatia and Macedonia.

2. According to the 1991 census the Federal Republic of Yugoslavia has a population of 10,394,026.[1/] Of that figure, 9,778,991 live in the Republic of Serbia, and 615,035 in the Republic of Montenegro. Average population density is 101.18 per sq. km.

Population breakdown by nationality

TOTAL	10,394,026
Serbs	6,504,048
Montenegrins	519,766
Yugoslavs	349,784
Albanians	1,714,768
Hungarians	344,147
Muslims	336,025
Croats	111,650
Romanies	143,519
Slovaks	66,863
Romanians	42,364
Macedonians	47,118
Bulgarians	26,922
Others[2/]	213,974

3. Of the total population figure, 5,194,261 are men and 5,199,765 are women. The youngest population, i.e. persons under 14, make up 25 per cent, and those in the 65+ group 9.9 per cent of the total. In 1990 there were 155,022 live births in Yugoslavia or 14.7 per thousand of the population. Of the total number of live births, 80,541 were male and 74,481 were female. The fertility rate is 2.1 per cent. A total of 97,665 persons or 9.3 per thousand of the population died. Of that figure, 52,419 were men and 45,246 were women. Infant mortality stood at 3,537, with a larger share of male infants (1,921) in relation to females (1,616). There were 955 still births, 528 males and 427 females. The natural increment of 1990 was 57,357 or 5.4 per cent with 28,122 males and 29,235 females. The average age of the population is 35 years, 33.9 years for men and 36 for women. Life expectancy for live births in 1990 was 71.7 years with 69.1 for men and 74.3 for women.

1/ The 1991 census has not been processed in all its segments to date. Thus, in presenting statistical information the latest available figures are provided. The 1991 census has not been conducted fully in Kosovo and Metohija (due to the refusal of the Albanian population to take part), so that figures for the Albanian population are estimates made according to a verified statistical methodology.

2/ The item "others" includes Wallachians (17,810), Ruthenians (18,339), Turks (11,501), Bunyevtsi (21,434), Jews (1,230), Greeks (1,018), etc. as well as nationally uncommitted persons.

4. The national currency is the dinar (YUD).

5. The Yugoslav economic situation is extremely grave. Gross social product and production, and the volume of foreign trade are falling. The main causes of that situation are the United Nations sanctions against the Federal Republic of Yugoslavia and suspended ties with the former Yugoslav republics, etc. This among other reasons, has, led to a drastic drop in living standards, hyper inflation and adverse overall conditions in the sphere of social services and social security.

6. The Federal Republic of Yugoslavia has 3,947 km of railway lines, 1,339 km of which have been electrified. There are 47,460 km of constructed roads, including 6,400 km of main highways, 1,250 km of regional roads, and local roads, which account for the biggest share of 28,540 km. In the area of transport, Yugoslavia has 37 aircraft, 1 passenger and 37 maritime cargo ships, and 8 passenger and 590 cargo ships for internal waterway traffic. By the end of 1990, there were 1,405,455 registered passenger vehicles, 13,133 coaches and 92,874 trucks.

7. Rural settlements prevail over urban ones in the Federal Republic of Yugoslavia, accounting for 78.5 per cent and 4.4 per cent respectively, and mixed-type settlements account for 17.1 per cent.

8. The total number of households stands at 2,711,453. Four-member households predominate, with 613,722, while there are 358,968 single households.

9. Of the total 1981 population figure (9,897,986) the labour active population makes up slightly less than half or 4,428,228 (44.7 per cent). The share of men in that number is twice of that of women or 2,747,421 as compared to 1,680,807. Farmers account for more than a half or 58.3 per cent of the labour active population.

10. The number of gainfully-employed persons (including pensioners, beneficiaries of real estate property revenues, recipients of relief, etc.) stands at 754,144, with slightly more men (397,283) than women (359,861). Of the total number of dependants (4,671,273), almost half of the population, women account for by far the largest share with 2,918,562. The number of male dependants is 1,752,211.

11. The social sector in the Federal Republic of Yugoslavia employed a total of 2,707,000 persons, in 1990 of whom 1,045,000 were women. Private sector employment stood at 66,000, including 26,000 women. The preliminary figures under the 1991 census show private sector employment to have tripled, reflecting the privatization trend of socially-owned capital and the development of a market economy framework in Yugoslavia.

12. The rate of unemployment is 20.5 per cent. According to preliminary indicators for 1991, 714,224 persons were in search of jobs in the Federal Republic of Yugoslavia, half of them women (374,176). Of that number, the majority were university degree holders, post-secondary school graduates and secondary vocational school graduates (283,700, of whom 165,600 were women). The number of unskilled workers in search of employment is also large - 241,900 including 125,700 women or close to half.

13. Yugoslavia has 21,235 employed physicians and the physician-to-patient ratio is 1 to 500. There are 4,702 dentists and 2,698 pharmacists. The number of hospital beds is 60,808, i.e. one hospital bed per 172 inhabitants.

14. Towards the end of 1990 the housing fund consisted of 3,207,000 dwellings. Currently the privatization of the fund is under way through purchases by tenancy title holders. The average indoor area per tenant is 19 sq.m.; 96.9 per cent of dwellings have electrical fittings and 69.4 per cent have plumbing and 53.6 per cent thereof have bathrooms.

15. According to the 1981 census, of the 8,258,032 inhabitants aged over 10 7,368,029 were literate, slightly more men (3,885,984) than women (3,482,045). In this population group, 10.8 per cent were illiterate, and the share of women being four times that of men, i.e. 16.78 per cent and 4.61 per cent respectively.

16. On the territory of the Federal Republic of Yugoslavia, according to the preliminary 1991 census figures, there are 5,075 elementary schools, 565 secondary schools, 63 post-secondary schools and 84 institutions of higher learning. During 1990, 143,345 students completed compulsory elementary education, 93,408 secondary schooling; 7,930 students received post-secondary school certificates and 11,320 university diplomas; 1,018 candidates acquired master's and 483 doctoral degrees.

17. Under the Constitution of the Federal Republic of Yugoslavia, the official language in Yugoslavia is the Serbian language, of both Ekavian and Iekavian dialects. The Cyrillic script and the Latin script are in official use in accordance with the Constitution and the law. The languages and scripts of national minorities are also in official use in the areas of the Federal Republic of Yugoslavia inhabited by national minorities.

18. In 1981, the majority of the population (7,639,886) used Serbian as their mother tongue. Among the national minority languages, the Albanian language is the most widespread (spoken by 1,351,894) followed by Hungarian (374,864).

Statistical breakdown of the population by mother tongue (1981)

Serbian	7,639,886	Ruthenian	16,231
Macedonian	30,063	Slovak	67,621
Slovene	8,759	Turkish	16,393
Albanian	1,351,894	Ukrainian	2,023
Bulgarian	35,299	Wallachian	129,614
Czech	1,970	Danish	899
Greek	939	English	750
Italian	436	Dutch	123
Jewish	40	Norwegian	273
Hungarian	374,864	Swedish	416
German	3,883	Russian	1,911
Polish	858	Other languages	2,485
Romany	93,125	Unknown	59,163
Romanian	56,499		

19. In 1991 the Federal Republic of Yugoslavia, had 64 radio stations, including eight in the Republic of Montenegro and 56 in the Republic of Serbia, with a total of 1,877,000 radio subscribers. The television network comprises six television centres of which one is in the Republic of Montenegro and five are in the Republic of Serbia, with the number of television subscribers totalling 1,699,000.

20. A total of 801 magazines and newspapers are published in Yugoslavia, including 11 dailies, 105 weeklies, 149 bi-weeklies and 269 monthlies, while the other magazines are published in other time periods or occasionally. The majority of these papers are in the Serbian language (692 out of 801), 18 magazines and papers are published in the Albanian language, 25 in Hungarian, 2 in Bulgarian, 6 in Czech and Slovak, 5 in Romanian, 6 in Ruthenian and 3 in Turkish. Four papers or magazines are published in English and 22 have several different language editions. Of the total number of magazines (505), 410 are in Serbian. As for the national minorities' languages, the number of Albanian-language magazines is the largest (14), followed by those in Hungarian, Czech and Slovak - six in each. Twenty-six magazines are published in English and there are 25 magazines with several different language editions.

21. In the Federal Republic of Yugoslavia in 1991 the number of convicted adults stood at 35,756. The majority were convicted for traffic offences (8,307), or offences against life and limb (5,911), while 800 persons were found guilty of criminal offences against human and civil freedoms and rights and 29 others of offences against the social order and national security. In the same period, 2,563 adolescents were convicted, 1,999 of them for property offences; 1,066 reformatory measures were imposed against adolescents under 16 and 1,490 reformatory measures against older adolescents. Seven teenager reformatory camp sentences were also given to older adolescents.

22. Fines were most common and were meted out in 14,053 cases as opposed to 12,580 prison sentences. Of the total number of convicted persons (35,756), a large number received a suspended sentence (14,053). The Constitution (art. 212) stipulates explicitly that criminal offences prescribed by federal legislation may not carry the death penalty. This means that the death sentence, under the positive Yugoslav criminal legislation, may be pronounced solely for the worst felonies prescribed in the criminal codes of the member republics, and particularly for the worst cases of homicide and armed and premeditated robbery.

II. GENERAL POLITICAL STRUCTURE

A. Political history and framework

23. The migration of the South Slavs to the Balkan peninsula ended in the early 7th century when a process of state-forming, comparable to that in evidence in Western Europe began. The more noteworthy entities created by the South Slavs up to the 14th century include the Croatian state in the 10th and 11th centuries; Tsar Samuil's Macedonia (976-1014); Bosnia towards the end of the 14th century; and the Nemanjic dynasty's Serbian state from the early 13th to the mid-14th centuries, which under the rule of Tzar Dushan encompassed close to two thirds of the entire Balkan peninsula.

24. The Turkish and Austro-Hungarian conquests brought this process to a halt and it was not revived until after the two Serbian uprisings in 1804 and 1815 and the forming of the Principality of Serbia. At the 1875 Berlin Congress, the Principalities of Serbia and Montenegro gained their independence, and the Austro-Hungarian Empire was allowed to annex Bosnia-Herzegovina.

25. In the 19th century the idea of the unification of the South Slavs, promoted by liberated Serbia, began to take root. Its aim was the liberation of all South Slavs from foreign rule and the founding of a common state. It was not before the end of the First World War, in the course of which Serbia and

Montenegro had suffered extreme casualties and fought bravely side by side with the allies, that the conditions were created for this idea to materialize.

26. Yugoslavia came into being on 1 December 1918 as a result of the unification of Serbia (following its unification with the Kingdom of Montenegro), with the South Slav peoples - the Slovenes, the Croats and the Serbs - who had up to that time lived in what was the former Austro-Hungarian Empire. The unification was completed under the Serbian Karadjordejevic dynasty, and the first name given to the common State was the Kingdom of Serbs, Croats and Slovenes. In international terms, the new State was an extension of the Kingdom of Serbia, having inherited its international personality and commitments, as well as the obligations of the Kingdom of Montenegro.

27. In early 1929, the name of the State was altered to the Kingdom of Yugoslavia. Apart from unstable economic conditions and political disarray following King Aleksandar's assassination in Marseilles in 1934, the State was severely shaken by Croatian separatism, which brought about the forming of a separate administrative unit - the Banovina Hrvatska in 1939 on the eve of the Second World War.

28. Following the attack by German, Italian, Hungarian and Bulgarian fascist units in April 1941 and a short-lived resistance, the Army of the Kingdom of Yugoslavia capitulated, and the Government fled the country. The occupiers dismembered the country, and from parts of Croatia, Slavonia, Bosnia-Herzegovina and Dalmatia, what was known as the Independent State of Croatia was formed.

29. In mid-1941, the Yugoslav peoples rose up in arms for the liberation of the country. Towards the end of the war in 1944, with the support of the allies, a joint interim government was formed, of representatives of the Communist movement and of the Royal Government in exile. In November 1945 elections were held for a Constitutional Assembly which proclaimed the State of the Federal People's Republic of Yugoslavia on 29 November 1945. At these elections, as well as at subsequent ones, what remained of bourgeois parties was eliminated and the multiparty system was replaced by the rule of the Communist party. The State of the Federal People's Republic of Yugoslavia continued the international legal personality of the Kingdom of Yugoslavia.

30. The new State was constituted as a federation of six republics whose order and internal borders were established during the war by the organs of the Communist Party. The following were established as federal units (republics): Bosnia-Herzegovina, Montenegro, Macedonia, Croatia, Slovenia and Serbia (of which the Autonomous Province of Vojvodina and the Autonomous Region of Kosovo were integral parts). In drawing administrative borders between the federal units the borderlines of pre-war administrative regions were mainly used, but without any legal act to verify them. One of the federal units (Bosnia-Herzegovina) was formed as an equitable community of its constituent peoples (Serbs and Croats) and nationalities, rather than on the ethnic principle, while Croatia was constituted as a community of two constituent peoples - the Croats and the Serbs. In Yugoslavia, the Muslims attained the status of a nation after 1968. Just as in the case of the other four republics - Serbia, Montenegro, Slovenia and Macedonia - the ethnic principle was not taken into consideration in determining the borders between Croatia and Bosnia-Herzegovina either, so that each of the federal units remained populated by persons belonging to one or more of the other Yugoslav peoples, not to mention numerous ethnic minorities. These facts, which were not accorded due attention by the communist authorities at the time the Yugoslav federation was formed posed almost insurmountable

problems when it came to delimitation with the seceded former Yugoslav republics.

31. During its four and a half decades of existence, socialist Yugoslavia underwent a brief period of administrative socialism and a longer period of a specific form of self-management socialism. Certain results were achieved in economic and overall social relations which were over and above the level of those registered in East European socialist countries, which also holds for the extent of democratization and the state of human rights and freedoms. Of course, behind the scene of what appeared to be an ideal society, many real problems persisted, including in particular unsettled inter-nationality relations, unsatisfactory economic conditions and certain other destabilizing factors.

32. After the death of President Tito in 1980, the Communist regime did not succeed in addressing the accumulated problems and providing an efficient process of social and economic reforms. The League of Communists fell apart in January 1990 and the state crisis gathered momentum. The attempts of the federal and republic leaderships to transform the Yugoslav federation and find a peaceful solution to the crisis were without results.

33. In June 1991, referring to their right to secession and encouraged openly by certain foreign countries, Slovenia and Croatia proclaimed their independence. In December 1990, Croatia adopted its Constitution, under which, for the first time since 1945, the Serbs were divested of the status of one of the two constituent peoples in that republic. The Yugoslav Army intervened in a small measure in Slovenia, while its engagement in Croatia was designed to protect the Serb population there. The international community proceeded prematurely to recognize Slovenia and Croatia, and the example of the seceded republics was soon followed by Macedonia and Bosnia-Herzegovina, whose leaderships also declared independence.

34. Proceeding from the uninterrupted personality of Yugoslavia and the voluntary association of the Republic of Serbia and the Republic of Montenegro, and further to the motions and agreement reached by the Parliaments of these two republics, the Federal Chamber of the Assembly adopted the Constitution of the Federal Republic of Yugoslavia on 27 April 1992. The Federal Republic of Yugoslavia was thus formed as a sovereign federal State comprised of the Republic of Serbia and the Republic of Montenegro as its equal members.

35. In May 1992 multi-party elections for deputies to the bi-cameral Federal Assembly were held. In June the first president of the Federal Republic of Yugoslavia was elected and in July the first prime minister.
On 20 December 1992, new early parliamentary and presidential elections were held at the federal, republic and local levels.

36. The member republics are constitutionally defined as states, sovereign in respect to all issues that fall, according to the Federal Constitution, within the competences of the Federal Republic of Yugoslavia. They are autonomous in determining their organization of authority and within their competences may maintain international relations, establish their own representative offices in foreign States and conclude international agreements, however, not to the detriment of the Federal Republic of Yugoslavia or the other member republic. The Republic of Serbia adopted its Constitution on 9 September, and the Republic of Montenegro on 12 October 1992.

(individually or in coalition with others), and groups of citizens have the right to nominate candidates for deputies. The state participates (partially and proportionally) in financing the election campaign. Proponents of candidates' lists conclude agreements with press, radio and television organizations and the founders of those organizations regarding the presentation of candidates and election programmes. D'Aughton's formula is used in the distribution of mandates, whereby lists which receive less than a specific percentage of votes (4-5 per cent) are not distributed. The elections are carried out by non-state bodies (election commissions and councils), and generally supervised by special supervisory councils.

42. Persons holding the office of deputy in the Chamber of the Republics may not run for the Chamber of citizens of the Federal Assembly or for a republican parliament; incompatibility further exists between the duties of federal deputies and those of the President of the Federal Republic of Yugoslavia, the Prime Minister, the members of the Federal Government, justices of the Federal Court and of the Federal Constitutional Court and the Federal State Prosecutor. In the Republics of Serbia and Montenegro, the duties of a republican parliamentary deputy are incompatible with those of the president of the republic or with juridical or other duties entrusted to candidates elected by those parliaments.

43. The deputies to the Federal Assembly, as well as to the republican assemblies, have a four year term of office which may be terminated even before the expiry of that period in cases established by the Constitution and by law. The institution of recall of deputies does not exist. Deputies decide and vote according to their conscience, and enjoy immunity. They have the right to introduce bills for federal statutes and address questions to the Government, the right to be informed on all issues relevant to the discharge of their duties, etc. They have certain financial benefits to enable them to perform their duties (compensation for work, public transport and other). They exercise particular rights as a group (e.g. a vote of confidence in the Federal Government requires the relevant initiative to be submitted by 20 federal deputies).

44. The Federal Assembly takes decisions in a bi-cameral fashion by a majority of votes of the federal deputies in each of the two chambers, and in two cases (on matters regarding the federal Government and the economy), by a two thirds majority vote. As the principle of bi-cameral decision-making has been adopted, a mechanism for settlement of disputes between the chambers has been incorporated in the Constitution of the Federal Republic of Yugoslavia. The first stage of which is a bi-cameral commission for harmonization; the second stage, a temporary application of the text adopted by one of the chambers; and in the third stage, after one year, the settlement of bi-cameral disputes is achieved through elections following the dissolution of the Assembly. The Federal Assembly is a constitutional and legislative authority, and decides as well on relevant political issues (e.g. war and peace, admission of new member republics), carries out political inspection of the work of the Federal Government and elects the President of the Federal Republic of Yugoslavia, the Federal Prime Minister and other high-ranking officials.

45. The two chambers of the Federal Assembly establish the following permanent joint commissions: the commission for constitutional affairs; the legislative-legal commission, the commission for the exercise of civil freedoms, rights and duties; the administrative commission and the grievances and complaints commission. The Chamber of Citizens and the Chamber of Republics have eight permanent committees each (for foreign affairs and external economic relations;

for defence and security; for justice and federal administration; for the federal budget, etc.). Joint commissions and committees meet as part of the legislative process and consider other issues falling within the jurisdiction of the Federal Assembly in a specific field. They are made up of 7 to 11 members appointed from the ranks of deputies.

46. The right to introduce bills for federal statutes and other regulations to be adopted by the Federal Assembly is vested in the Federal Government, each federal deputy and at least 30,000 voters, as well as in the National Bank of Yugoslavia, in respect of enactments regulating the monetary, credit and foreign exchange systems. The Federal Government gives its opinion on the draft federal laws and other regulations submitted to the Federal Assembly by other authorized proponents.

47. The Federal Assembly convenes two regular sessions (the first opens on the first weekday in February and the second on the first weekday in September). Extraordinary sessions can also be called, at the request of at least one third of all federal deputies to one of the Chambers or at the request of the Federal Government.

48. The republican parliaments are uni-cameral: their deputies have a four year term of office, and take decisions by a simple majority and, in particular cases, by a qualified majority of votes. The National Assembly of the Republic of Serbia has 250 deputies, and the Assembly of the Republic of Montenegro has 85. Both Assemblies discharge duties similar to those of the Federal Assembly they wield legislative and constitutional powers, decide on specific political matters, carry out political inspection of the work of the republican governments and elect particular high-ranking officials). They also have commissions and committees which take part in the law-making process and review other issues. The right to put forward draft laws and other regulations is the prerogative of the republican governments, of each deputy and a certain number of voters (in Serbia no less than 15,000 and in Montenegro no less than 6,000 voters). In Serbia, the right to introduce bills is also the prerogative of the autonomous provinces of Vojvodina and Kosovo and Metohija. The republican assemblies also meet in two regular sessions annually and may convene extraordinary sessions as well.

D. Head of State

49. The Office of Head of State (President of the Republic) exists both at the federal and at the republican levels, their respective powers, however, differ to a certain extent.

50. The institution of the President of the Republic (Head of State) at the federal level is limited to a representative role and certain responsibilities in nominating candidates for federal offices and in commanding the military. The President represents the Federal Republic of Yugoslavia at home and abroad; promulgates federal laws by decree; issues instruments of ratification of international treaties; recommends to the Federal Assembly candidates for appointment as the Federal Prime Minister, justices of the Federal Constitutional Court and the Federal Court, the Federal State Prosecutor and governor of the National Bank of Yugoslavia; calls elections for the Federal Assembly; appoints and recalls ambassadors to the Federal Republic of Yugoslavia; receives letters of credence and recall from foreign diplomatic envoys; confers decorations and honours of the Federal Republic of Yugoslavia and grants pardon for federal statutory criminal offences. The President of the

Federal Republic of Yugoslavia is the supreme commander of the Yugoslav Army in times of war and peace, in accord with the decision of the Supreme Defence Council. This Council is made up of the President of the Federal Republic of Yugoslavia and the Presidents of the member republics, and is chaired by the President of the Federal Republic of Yugoslavia. The President further appoints, promotes and retrieves of duty senior military officers of the Yugoslav Army, as well as justices of military courts and military prosecutors. The President of the Federal Republic of Yugoslavia is elected by the Federal Assembly for a four year term of office, by secret ballot, and the same individual may not be re-elected President for a second term. The President may be relieved of office solely if the federal Assembly establishes that he has violated the Constitution; he may also submit his resignation. In the event of termination of his mandate or of temporary inability to carry out his duties, he is replaced by the President of the Chamber of the Republics of the Federal Assembly.

51. The President of the Republic of Serbia, under the Constitution of that Republic, represents the Republic of Serbia and personifies its state unity. He has the following powers: recommends to the Republican Assembly candidates for the Republican Prime Minister and justices of the Constitutional Court of Serbia; promulgates laws by decree; grants pardons and confers decorations and honours; performs duties in the field of international relations of the Republic of Serbia; commands the armed forces in times of peace and war; orders general and partial mobilization and organizes preparations for defence; establishes the existence of immediate threat of war and proclaims a state of war in the event of the inability of the Republican Assembly to convene a meeting; passes enactments on issues falling within the jurisdiction of the Republican Assembly in a state of war or immediate threat of war, when the Assembly is not in a position to meet, and declares a state of emergency when the security of the republic, human and civil freedoms and rights or the operation of state authorities come under threat in any part of the territory of the Republic of Serbia. He may request from Republican Government to present the Assembly's views on particular issues within its competence. At the proposal of the Republican Government the President of the Republic may decide to dissolve the Republican Assembly, in which case the mandate of the Republican Government will also be terminated. The President is obliged to promulgate a law by decree within seven days of the day of its adoption by the Assembly, and may demand that the law be once again voted upon by the Assembly within that time limit. If the Assembly votes in favour of the law for the second time, the President of the Republic is under the obligation to promulgate the said law. The President is elected in direct elections, by secret ballot. he has a five year term of office and may be re-elected for a second term. He may be relieved of office if the Republican Assembly establishes that he has violated the Constitution and if the majority of the total number of voters votes in favour of his recall. He may tender his resignation. In the event of his resignation or recall, or a temporary inability to carry on his duties, the President is replaced by the President of the Republican Assembly.

52. The President of the Republic of Montenegro represents the republic at home and abroad; promulgates laws by decree; calls elections for the Republican Assembly; nominates candidates to the Assembly for the post of Prime Minister of the Republican Government and justices of the Constitutional Court of Montenegro; recommends to the Assembly the calling of a republican referendum; grants pardons and confers decorations and honours. The President of Montenegro has the same powers relating to the promulgation of laws as the President of the Republic of Serbia; he is elected by the citizens, in direct elections by secret ballot, for a five year term of office, and the same individual may be re-

elected only once. The president may be relieved of office by the Republican Assembly solely if it has been established by the Constitutional Court of Montenegro that he has violated the Constitution. He may tender his resignation. In the event of his resignation or recall, or temporary inability to discharge his duties, the President is replaced by the President of the Republican Assembly, or by the Prime Minister, in the event of the dissolution of the Assembly.

E. The Executive

53. Executive authority in the federation and the republics is vested in the government (federal and republican). As with the institution of Head of State, there are certain differences between the federal and republican governments as regards their position and authority.

54. The Constitution defines the federal Government as the proponent of federal executive power, as an independent, coherent and responsible body of the federal State. The autonomy of the federal Government is reflected in its powers (setting and implementation of foreign and home policies, etc.) as well as in its relations with the Federal Assembly (the right of the federal Government to dissolve the Federal Assembly and to request a vote of confidence in it be taken by the Assembly); the coherence of the composition of the federal government is ensured by the mode of its election; and its responsibility by the right of the Federal Assembly to take a vote of no-confidence in the Government. The duties of the federal Government are to establish and implement home and foreign policy; to implement federal laws and other federal enactments; maintain relations between the Federal Republic of Yugoslavia and other States and international organizations; propose federal laws and other enactments to the Federal Assembly; pass decrees and by-laws; render opinions on draft federal laws and other federal regulations submitted to the Federal Assembly by other authorized proponents; set up and dissolve federal ministries and other federal bodies and organizations, determine their organization and terms of reference, channel and coordinate their work, annul or repeal their acts and appoint and relieve of duty federal officials; order general mobilization and organize preparations for defence; declare a state of immediate danger of war, state of war or emergency when the Federal Assembly is unable to convene and under the same conditions, pass acts on questions within the jurisdiction of the Federal Assembly. The federal Government also decides on its organization and method of work and decision making, and carries out other tasks spelled out by the Constitution. The federal Government is elected for a four year term of office, and is composed of the President or Prime Minister, Vice-Presidents and federal ministers. Members of the federal Government enjoy immunity, as do the federal deputies. The federal Government is constituted when the President of the Federal Republic of Yugoslavia appoints a prime minister designate who presents his programme and the composition of his cabinet to the Assembly, which in turn elects the Prime Minister of the federal Government. The federal Prime Minister answers for his work and the work of the Government to the Federal Assembly. The Federal Assembly may take a no-confidence vote in the Government by a majority vote of deputies of both chambers, on the basis of a motion of a no-confidence vote tabled by at least 20 deputies. The federal Prime Minister may submit his resignation to the Federal Assembly, and such resignation entails the termination of the mandate of the entire cabinet.

55. The Government of the Republic of Serbia establishes and pursues the policy of the Republic of Serbia and implements republican laws and other regulations; it adopts decrees and by-laws; proposes laws and other regulations

to the Republican Assembly and renders opinions on such proposals of other proponents; determines the principles of internal organization of the republican administration, channels and coordinates its work, supervises the work of the republican administration and annuls or repeals its regulations; appoints and relieves of duty officials in the republican administration; forms specialized and other services for its own needs and carries out other tasks in accordance with the Constitution and the law. The Government proposes the dissolution of the Republican Assembly but the decision is taken by the President of that Republic. The President of the Republic of Serbia, who presents his programme and cabinet to the Assembly, nominates the prime minister designate. A government is elected if the majority of deputies vote in favour of its election. The term of office of the government is four years, and it is composed of the President or Prime Minister, vice-presidents and ministers. If the Prime Minister, Vice-Presidents or ministers have been elected from among the deputies, they retain their deputy mandates. The Government and each of its members answer for their work to the republican Assembly which may take a no-confidence vote in the entire cabinet or an individual member. The Government may raise the issue of its confidence in the Assembly, while the Prime Minister can propose to the Assembly that it relieve of office individual cabinet members. The Prime Minister and cabinet members may tender their resignation to the Republican Assembly, while the resignation or relief of office of the Prime Minister entails the resignation of the entire cabinet.

56. The Government of the Republic of Montenegro establishes and pursues home and foreign policy; proposes the adoption of republican laws and other republican regulations and implements them in practice; adopts decrees and by-laws; concludes international agreements which fall within the competence of the republic; determines the organization and method of work of the republican administration, supervises its work and annuls or repeals its regulations; passes decrees which have the force of law during a state of emergency, immediate threat of war or state of war in the event the Assembly is unable to meet; carries out other duties specified by the Constitution and the law. The Government is elected for a four year term of office and consists of the President or Prime Minister, Vice-Presidents and ministers. The Prime Minister designate is nominated by the President of the Republic, and he presents his programme and proposes his cabinet to the Assembly. A member of the Government may not discharge the functions of a deputy. The cabinet and each of its members may submit their resignation, while the resignation of the Prime Minister entails the resignation of the entire cabinet. The Prime Minister may propose that the Assembly relieve individual cabinet members of office. The Government may raise the issue of its confidence in the Assembly, while the Assembly may take a vote of no confidence in the Government at the proposal of at least 10 deputies.

57. The affairs of the state administration which fall within the competence of the federal State are carried out by the federal ministries, and those within the competence of the republics of the republican ministries. Certain state administrative affairs within the competence of the federation may be entrusted to enterprises and other organizations, and those within the competence of the republics to enterprises and local self-government bodies. The division of administrative competences between the federation and the republics is carried out along vertical lines so that all regulations within the competence of the federal State are implemented by federal administrative bodies (the so-called double track system).

F. The Judiciary

58. Judicial authority is vested in courts which are, like the proponents of executive authority, bound by the law. Courts are independent in their work, and a judge cannot be held accountable for an opinion rendered in passing a court decision. The judicial function is permanent, except for in the Federal Court where judges are elected for a nine year term of office. A judge's function may be terminated in the following cases: at his personal request, if he fulfils requirements for retirement, if he is convicted of a criminal offence and is therefore unworthy to discharge that function, if he discharges his duty in an unprofessional and unconscientious manner or permanently loses the ability to discharge a judicial office.

59. Court hearings are public, while the law specifies the cases in which the public shall be barred from hearings. The principle of collegiality is applied in court proceedings, while the law may prescribe that a single judge shall administer justice in specific matters. An exception is the Federal Court, which always sits in a panel. Professional as well as lay judges (laymen) take part in court proceedings. The Federal Court represents an exception in this regard also (only professional judges take part). An appeal to a higher instance court (the principle of two-instance court proceedings) may be lodged against decisions made in first instance courts. However, in exceptional cases, specified by the law, this appeal may be ruled out when legal protection is provided in some other way. The Federal Court is regulated and established by the federal State, while the member republics independently regulate and establish courts in the republics.

60. Judicial authority in the area of federal jurisdiction is vested in the Federal Court, which is the supreme body of judicial power within the framework of the rights and obligations of the federation. It is predominantly an instance court and a court of first instance for specific types of litigations. It also determines principled stances concerning the application of federal laws and other federal regulations by courts in the republics, whereby the uniform application of these laws and regulations is ensured. It makes last instance decisions on cases specified by federal law; decides on extraordinary legal remedy against decisions made by courts in the member republics in questions relating to the application of federal laws; decides property litigations between the member republics, as well as between the federal State and the member republics; decides on the legality of final administrative acts of the federal authorities (administrative proceedings); decides on conflicts of jurisdiction between the courts of the two member republics, as well as between military and other courts; and discharges other duties under its jurisdiction pursuant to the Federal Constitution and the law. The Federal Court has 11 judges elected by the Federal Assembly, who elect among themselves the President of the Court. The judges enjoy the same immunity as federal deputies, while the Court itself decides on that immunity.

61. Courts in the member republics are organized in three tiers. In the Republic of Serbia these are: communal courts (established for the area of one or more communes), district courts (established for the area covered by one or more communal courts) and the Supreme Court of Serbia, the highest court in the Republic of Serbia. The judges of all courts are elected by the Republican Assembly, which relieves them of office when the Supreme Court establishes that there are grounds for terminating their office. In the Republic of Montenegro there are: primary courts (for the area of one or more communes), higher courts (for the area of one or more primary courts) and the Supreme Court of

Montenegro, the highest court in that republic. The mode of electing the judges, relieving them of office and other issues pertaining to the composition, organization establishment and jurisdiction of courts are regulated in a similar way in both member republics.

62. In addition to courts of general jurisdiction, dealt with in paragraphs 60 and 61, there are also specialized courts. In the member republics economic courts can be established as primary and republican courts, with jurisdiction over economic law, including economic offences. At the federal level there are military courts, which are organized as first instance courts, and also the Supreme Military Court. These courts try cases which relate to criminal offences committed by members of the military or by civilians but relating to military duties and national security.

63. The judicial system also comprises the institutions of public prosecutor, attorney general, the Bar Association, legal assistance services, judicial administration bodies and certain forms of autonomous or non-state courts (arbitration panels, courts of conciliation, elected courts). There also exist the offices of federal public prosecutor and republican public prosecutor (offices of the communal, district, republican public prosecutor). There is also the institution of military prosecutor. The office of the Attorney General represents the State in property legal cases. Members of the Bar Association engage in independent and autonomous activities, providing legal assistance to citizens and legal persons; and legal assistance services exist at the level of the communes. Ministries of justice are in charge of judicial administration affairs.

G. Constitutional courts

64. Under the Constitution of the Federal Republic of Yugoslavia, constitutional court protection, i.e. the role of monitor of constitutionality and legality, is vested in the Federal Constitutional Court, and in republican constitutional courts in the republics. The Federal Constitutional Court decides on the conformity of the republican and the federal Constitutions, on the conformity of republican and federal laws and of federal laws and the Federal Constitution and ratified international treaties; on the conformity of general enactments of political parties and the Federal Constitution and federal law; on constitutional complaints on the violation of the freedoms and rights of man and the citizen by individual acts or deeds; on the conflict of competence between federal and republican bodies; on the prohibition of the work of political parties, and on violations of the law in the election of federal bodies. The Federal Constitutional Court has seven judges, elected by the Federal Assembly for a tenure of nine years, and the judges elect the President of the Court from among their ranks. The judges enjoy the same immunity as federal deputies and the independence of the Court in its work is ensured by the Constitution and law. The main legal effect of the decisions of the Federal Constitutional Court is that their passing terminates the application of the provisions of the disputed enactments to future relations. Exceptionally, the adopted individual acts may be reviewed and the consequences removed by restitution, compensation of damages or otherwise.

65. Republican constitutional courts decide on the conformity of republican laws and other republican regulations with the republican constitution; on the conformity of acts of political parties and on the prohibition of their work; on election disputes which are not in the jurisdiction of regular courts, etc. The Constitutional Court of Montenegro decides constitutional complaints on the violation of the freedoms and rights of man and the citizen by individual acts

or deeds, when no other judicial protection has been provided, while the Constitutional Court of Serbia has no such competence. The Constitutional Court of Serbia and the Constitutional Court of Montenegro have nine and five judges respectively. Proceedings before these courts as well as before the Federal Constitutional Court may be initiated by anyone, and the actual proceedings are instituted by state bodies and legal persons, when their rights or interests have been violated by the disputed act. Also, the constitutional courts themselves may institute proceedings for assessing constitutionality and legality.

H. Autonomous provinces

66. There are two autonomous provinces in the Republic of Serbia (Vojvodina and Kosovo and Metohija) as forms of territorial autonomy. They have been established under the republican constitution, in accordance with the specific national, historic, cultural and other characteristics of these regions. Both of these provinces have been in existence since the Second World War and have always been a part of the Republic of Serbia; however, under the last Constitution of the Socialist Federal Republic of Yugoslavia (1974), their status had in respect of some elements, and even to a greater degree in practice, been elevated to that of federal units. Since such a status of the provinces was exercised to the detriment of the state unity and integrity of the Republic of Serbia, the new republican constitution reduced the provinces to a form of territorial autonomy, which, while ensuring a high degree of autonomy for these regions, also guarantees the state unity of the Republic of Serbia.

67. The Constitution of the Republic of Serbia specifies the areas in which the bodies of the autonomous provinces independently exercise their rights and obligations. They adopt programmes of economic, scientific, technological, demographic, regional and social development, in accordance with the development plan of the Republic of Serbia, and define measures to implement those programmes. They pass decisions and general enactments regulating various issues of interest to citizens in the areas of culture, education, official use of the languages and alphabets of national minorities, public information, health care, social welfare, town planning and others. They implement republican laws and other republican regulations when entrusted to do so; they adopt the budget and balance sheet of the autonomous province; they form bodies, organizations and services of the autonomous province and discharge other duties specified by the Constitution and the law. The autonomous provinces have their own revenues, regulated by republican law. They adopt their statute as the supreme legal act of the province, subject to the previous approval of the Republican Assembly. The bodies of the autonomous province are: the assembly, the executive council and administrative bodies, and the competent republican bodies supervise the discharge of the tasks entrusted to those bodies from within the rights and duties of the Republic.

I. Local self-government

68. The Constitution of the Federal Republic of Yugoslavia guarantees the right to local self-government (art. 6, para. 4), which is exercised in keeping with the constitutions and laws of the member republics. In both member republics local self-government is of a one-tier nature and is exercised in the communes. In addition to the communes, in the Republic of Montenegro the capital is also a unit of local self-government, and in the Republic of Serbia the capital and other cities consisting of two or more urban communes. In the Federal Republic of Yugoslavia there are 211 communes (20 in Montenegro and 191

in Serbia). An average commune has approximately 50,000 inhabitants and covers an area of about 500 sq.km.

69. The citizens of a commune make their decisions either directly (by means of a referendum) or through their freely elected representatives concerning specific issues of public and other affairs of immediate interest to the local population. Those affairs have been defined by the Constitutions and laws of the member republics and they refer to development planning, town planning, public utilities; development and use of construction sites and business premises; local roads and streets and other public facilities of local significance; fulfilment of citizens' needs with regard to culture, education, health care and social security, physical culture, the crafts, tourism, environmental protection, etc. Apart from their basic functions, the communes act as subjects entrusted with the enforcement of republican laws and other republican regulations. In the latter case there is hierarchial (administrative) supervision, whereas in the area of basic functions, government bodies only supervise the legality of operations of the communal bodies. For the execution of basic functions, the communes are entitled to revenue, the sources of which are defined by law, and for the execution of specific tasks entrusted to them, are entitled to funds out of the budget of the respective republic.

70. The basic normative act of the commune is the statute passed by the communal assembly. The communal assembly consists of delegates elected by direct ballot and the method of carrying out the elections is stipulated by the republican law. In addition to the assembly, there is a chairman of the communal council (mayor in towns) and other bodies of the communal administration. Formally, the state has no right to interfere with the election of the local administration and officials. The communes are entitled voluntarily to join together to form local self-government associations (such as the association of communes in the republics and the Standing Conference of Towns and Communes of Yugoslavia).

III. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

A. Judicial, Administrative and Other Competent bodies having jurisdiction over human rights issues

71. The Federal Republic of Yugoslavia, as a country with a continental type of legal system, recognizes and guarantees the freedoms and rights of man and the citizen in its supreme constituent acts - the Constitution of the Federal Republic of Yugoslavia and the Constitutions of the member republics. These acts recognize and guarantee a wider range of individual, political, social, economic and cultural freedoms and rights, as well as the specific rights of the national minorities proceeding from the freedoms and rights guaranteed by international law.

72. Also provided by the Constitutions is a mechanism to limit the guaranteed freedoms and rights. Being determined beforehand, it is possible to circumvent any abuse. Namely, the individual freedoms and rights of man and the citizen are limited by the equal rights of others, as well as in cases stipulated by the Constitutions. However, some of the recognized and guaranteed rights cannot be limited even under a state of emergency or a state of war.

73. Freedoms and rights are exercised pursuant to the Constitutions themselves, but in specific cases determined by these acts, the mode of their

implementation may be stipulated by special laws. The authorities established within legislative and executive bodies of both federal and republican governments are in charge of monitoring and supervising the exercise of freedoms and rights. Besides that, there are numerous non-governmental organizations and citizens' associations in the country established primarily with the objective of monitoring the exercise and protection of human and minority rights.

74. All three Constitutions impose on each individual the obligation to observe the freedoms and rights of other individuals, for which he is held accountable. Apart from influencing the citizens by such political and declaratory rules, these supreme legal acts declare the abuse of freedoms and rights unconstitutional and punishable deeds and prescribe that such rights and freedoms shall enjoy judicial protection, which means that the breach of these constitutional provisions implies legal sanctions that may be criminal (fines or other penal sanctions), civil (indemnity) or measures of enforced performance of obligations vested in the guaranteed freedoms or rights.

75. In addition to regular judicial protection, the legal system of Yugoslavia enables every person to commence legal proceedings before the Federal Constitutional Court for the annulment of a document or the prohibition of an act which constitutes a violation of the freedoms and rights guaranteed by the Constitution of the Federal Republic of Yugoslavia.

1. Courts of law

76. The courts in the Federal Republic of Yugoslavia protect the freedoms and rights of citizens, the statutory rights and interests of legal entities, and constitutionality and legality. These functions are carried out by both regular and special courts. The special courts are commercial and military courts. Courts conducting proceedings relating to the protection of human rights and freedoms are primarily regular courts, i.e. the communal or, in the Republic of Montenegro, primary courts; district courts or, in Montenegro, superior courts; the Supreme Courts in the respective member republics, and the Federal Court as the judicial body of the Federal State. In the case of offences against members of the military and certain offences perpetrated by members of the armed forces, the proceedings are conducted before military courts.

77. The communal or primary courts are first instance courts having competence over, but not limited to:

(a) Criminal cases:

(i) To deliver judgements for criminal acts for which pecuniary sentence is prescribed by law as the main penalty, or prison terms of up to 10 years unless district or superior courts are competent for such acts under the law;

(ii) To deliver judgements for criminal acts placed under the jurisdiction of these courts by a special law;

(iii) To carry out investigations, settle appeals lodged against decisions of the investigative judges and settle pleas against bills of indictment for criminal offences under their jurisdiction;

(b) Civil cases:

(i) Lawsuits on property claims, providing such cases are not under the jurisdiction of a commercial court;

(ii) Disputes on existent or inexistent marriages, marriage annulment and divorce;

(iii) Disputes on ascertainment or disclaimer of paternity or maternity;

(iv) Disputes on alimony and custody and education of children;

(v) Disputes over unlawful prevention of the use of property;

(vi) Housing disputes;

(c) Labour disputes:

(i) Disputes on employment and termination of employment;

(ii) Disputes on conclusion and implementation of collective labour contracts and all disputes between employees and trade unions;

(iii) Disputes on implementation of regulations on the right to strike;

(d) Court decision enforcement procedures.

(e) Disputes on indemnity claims on the grounds of unjustified verdicts and unlawful detainment.

(f) Besides the above-stated areas of competence, the communal or primary courts carry out proceedings and, upon petition, propose annulment of a court decision or the cessation of security measures or of the legal consequences thereof in all cases where they had ruled such verdicts or measures.

78. In these courts, arbitration in criminal cases is carried out by a three-member panel consisting of a judge and two lay judges, except in criminal cases sanctioned by a penalty of imprisonment of up to one year or a pecuniary sentence (judged by a single judge). The investigation is assigned to an investigative judge and only exceptionally to the police (mainly by order of an investigative judge), whereas the appeals against the investigative judge's decision are resolved by a three-member panel.

79. In civil cases, arbitration in communal or primary courts is carried out by a panel consisting of a judge and two lay judges. A single judge (unus judex) administers justice in property disputes up to a certain value at issue, as well as in disputes over prevention of the use of property. In addition, a single judge implements enforcement procedures.

80. The district or superior courts are mainly courts of appeal, but they may act as courts of first instance in specific cases provided by law.

(a) The district or superior courts, as appellate courts, decide on appeals against the decisions of lower courts. As a rule, a court proceeding is a two-tiered proceeding. A legal remedy is provided for any first-instance decision, and in particular cases a three-tiered proceeding is envisaged. In dealing with appeals lodged against decisions of first-instance courts, the appellate courts (in this case district or superior courts), may dismiss the appeal as untimely or illicit, or reject the appeal as groundless and confirm

the verdict rendered by the lower court, or suspend such decision and return the case to the lower court for a rehearing, or alter the original verdict. This implies that when settling the appeals, the jurisdiction of these courts covers the functions of both cassation and appellate courts (the judicial system of the Federal Republic of Yugoslavia does not distinguish courts of cassation and appellate courts as separate institutions).

(b) the district or superior courts, as courts of first instance, perform the following:

(i) deliver judgements in cases of criminal offences sanctioned by a prison term of over 10 years or by capital punishment, as well as of criminal offences placed by law under the jurisdiction of these courts (e.g. the criminal offence of instigation of nationalist, racial and religious hatred, discord or intolerance, organizing groups and inducing them to commit genocide and war crimes, offences committed by judges, rape, manslaughter, incitement to suicide and complicity to suicide);

ii) carry out investigations, settle appeals lodged against the decisions of investigative judges, and settle petitions against bills of indictment for the criminal offences under their jurisdiction;

(c) The district or superior courts make decisions in disputes on correction of information carried by the mass media;

(d) These courts decide also on requests for annulment of verdicts based on court decisions and on petitions for cessation of security measures or of legal consequences of verdicts relating to the prohibition of acquiring certain rights, providing such verdicts or measures were pronounced by these courts;

(e) they conduct the procedure and decide on requests for delivery of convicted and accused persons;

(f) A specific competence of these courts needs to be underlined. They decide on proposals for the protection of freedoms and rights stipulated by the Constitution, in cases when such freedoms and rights are violated by an act of a government official or a responsible person in a company and no other judicial protection is provided. When the freedoms and rights are violated by a single final act, and no specific judicial protection is provided, the issue is referred to the Supreme Court (More details are provided below).

81. For criminal offences brought to trial before these courts as appellate courts, i.e. when deciding on complaints, the district or superior courts arbitrate in panels consisting of five judges. In the cases of criminal offences carrying mild punishment, the panel consists of three judges. When arbitrating as a court of appeal in hearing (if new evidence is required or a repetition is required of the presented evidence owing to incorrect or incomplete conclusions, or if there is a justifiable reason for not returning the case to the court of first instance), the panel is mixed - consisting of two judges and three citizen judges.

82. When acting as first-instance courts, the district or superior courts arbitrate in a panel consisting of two judges and three citizen judges for

criminal offences involving a prison term of over 15 years or even more severe punishment.

83. As a rule, when deciding on appeals in civil cases, arbitration is performed without a hearing by a panel of three judges. If a hearing is scheduled for the purpose of presenting new evidence in the appeal proceedings, the panel will consist of two judges and three lay judges.

84. The highest level courts in the Republic of Serbia and the Republic of Montenegro which, as a rule, arbitrate on appeals against legal remedies ruled by lower courts are the Supreme Courts. In most cases, the court proceedings are terminated before these Courts, i.e. at the level of the judicial organs of the respective republic.

85. The competence of the Supreme Courts includes the following: to decide on regular legal remedies against decisions reached by district or superior courts; to decide on extraordinary legal remedies against valid court decisions in cases provided by law; to decide on third-instance appeals against verdicts returned by second-instance courts of appeal in the republic; and to decide on legal remedies against decisions reached by a panel of judges of the Supreme Court.

86. It should be emphasized that the Supreme Court is empowered to make a first-instance decision regarding a request for protection of freedoms and rights as stipulated by the Constitution, if such freedoms and rights are violated by a single final act, and no other specific judicial protection is provided.

87. The composition of this court, when bringing second-instance decisions, is identical to the composition of the district or superior courts when dealing with appeals. In such cases its jurisdiction is of both cassation and appellate nature as in the case of second-instance proceedings carried out by the district or superior courts against the decisions of communal or regular courts. A panel of five or three judges delivers judgements regarding extraordinary legal remedies. When acting as a third-instance court, the panel consists of five judges.

88. It should be noted that third-instance proceedings are used only in cases when the second-instance court has ruled a death penalty or a 20-year prison sentence, or if it has confirmed such a sentence of the first-instance court. The three-tiered procedure is also applied when the second-instance court alters the verdict of the first-instance court acquitting the defendant by pronouncing the accused guilty.

89. If the Supreme Court has to make decisions in both the second and third-instances, the judges who participated in the second-instance proceedings are not allowed to be members of the third-instance panel.

90. The Federal Court is the court of the federal State and not the court of the highest instance within the entire judiciary of the Federal Republic of Yugoslavia. (Generally, the Supreme Courts of the respective member republics are assigned that role.) The areas of competence of the Federal Court are stipulated by the Constitution of the Federal Republic of Yugoslavia and by a separate Act on the Federal Court and Regulations on Court Proceedings (criminal cases and litigations). In the domain of the protection of human rights and freedoms, the jurisdiction of this Court comprises the following:

(a) Judgements on extraordinary legal remedies against the decisions of courts in the member republics and of military courts in matters concerning the enforcement of federal law;

(b) Decisions on the legality of the final administrative decisions of federal bodies.

91. In addition to the above-mentioned courts of general jurisdiction, military courts also have a certain degree of jurisdiction in the field of the protection of human rights and freedoms. Military courts in the Federal Republic of Yugoslavia constitute part of its judiciary system, implementing proceedings and material regulations also applied by courts of general jurisdiction. In other words, unlike in the majority of countries, military courts in the Federal Republic of Yugoslavia do not constitute a special court system implementing special legal acts. These courts exist both in peace and wartime. The 1949 Geneva Conventions on the Protection of Victims of War (ratified by Yugoslavia in 1954) envisage the obligation of establishing military courts in wartime, as according to these Conventions, proceedings against prisoners of war fall under the jurisdiction of military courts.

92. The Law on Military Courts regulates the organization of military courts. There are first instance military courts and the Supreme Military Court, as the second instance and the highest court. The Supreme Military Court has a full second instance jurisdiction, i.e. its competence is not divided between the district courts and the Supreme Court of a member republic, as in the case of courts of general jurisdiction. The Supreme Military Court is at the same time the third instance court in relation to decisions of the same court, when three-tiered proceedings are envisaged.

93. Military courts are inter alia, competent for: all offences committed by members of the military; proceedings against prisoners of war - for all offences they commit as prisoners of war; proceedings against civilians serving in the Yugoslav Army, for offences committed by these persons in discharging their duties, or in relation to the discharge of their duties.

94. These courts almost entirely implement the Criminal Proceedings Law, also applied by general jurisdiction courts, with a small number of exceptions arising from different forms of organization.

2. Administrative agencies

95. The Constitution of the Federal Republic of Yugoslavia, the provisions of the Constitutions of the member republics and of individual laws constitute the legal framework regulating relations between the public administration and citizens. These relations are based on the principle of legality; in other words, the relationship between the public administration and citizens is based on the consistent implementation of laws and by-laws. For this purpose, a system of supervision of the administration has been set up. It has various forms: administrative, judiciary, etc.

96. As regards the position of citizens in relation to the state administration, the following legal situations have been prescribed:

(a) The legal situation in which the state administration through its acts and activities may not violate principally the following rights: the freedom of thought, the freedom of option, the freedom of scientific and artistic creation,

the freedom of confession, inviolability of the person, and the equality of citizens;

(b) The legal situation in which the citizen has the right to request the state administration to take definite action (these are primarily social-economic rights: the right to work, the right to limited working hours, the right to strike, social insurance rights, the right of minors and women to special protection in labour relations, the right to education, etc.);

(c) The right of citizens to participate in the political and social life of the country, as well as in public affairs (the right to vote, freedom of the press, etc.);

97. Public administrative affairs are conducted by two types of agencies - governmental and non-governmental agencies - enterprises, organizations and communities with public competence. These agencies are authorized to decide whether to recognize or withdraw a right of a person, to prescribe an obligation for a person or free a person of an obligation. In doing so, these agencies are obliged, among other things, to respect the rights of citizens, while ensuring efficiency of the administration and implementing the measures that are the most favourable for both citizens and the administration. A second instance body acting upon a complaint may alter the first instance decision, if it establishes that the purpose for which such a decision was made can be achieved by other means, more favourable for the party concerned. Furthermore, it should be emphasized that the body authorized to implement a decision will do so in a manner that is the most lenient for the party.

98. Regulations on administrative proceedings contain rules regulating the forms of activities and the adoption of acts by governmental agencies, enterprises and other legal persons, when, by directly implementing regulations in administrative matters, they decide on the rights, obligations and legal interests of individuals and legal persons, as well as rules on the rights and obligations of parties involved in administrative proceedings.

99. Administrative proceedings in which governmental agencies and organizations entrusted with the implementation of public competences adopt administrative decisions on the rights or obligations of an individual or an organization in an administrative matter, are primarily regulated by the Federal Law on General Administrative Proceedings. The basic principles of these proceedings established by law are virtually identical with the principles upon which court proceedings are based (minor differences arising from the nature of individual proceedings): the principle of efficiency, the principle of material truth, the principle of hearing of the party, the principle of free assessment of evidence, the principle of independence in decision-making, the principle of two instances - the right to appeal the principle of irrevocability of decision, the principle of economical proceedings, the principle of assistance to a party, and the principle of the use of one's mother tongue in administrative proceedings.

100. Administrative proceedings are initiated by the competent agency ex officio or upon a party's request. Before adopting a decision, the agency shall establish all the facts and circumstances of relevance for the adoption of a decision, and enable the parties to exercise and protect their rights and legal interests. The agency may decide on the matter in emergency proceedings or in special investigation proceedings. The agency may decide in emergency proceedings only in cases provided for by the above-mentioned law.

101. A party has the right to participate in the investigation proceedings and defend its rights and interests. It can present facts and evidence related to the case and deny statements differing from its own statements. Oral debate is mandatory in cases involving two or more parties with opposing interests, or when investigation on the spot or hearing of witnesses or experts is necessary, and the agency in charge of the proceedings may, at its own initiative or upon the request of the party, prescribe oral debate in each case when it is useful for clarification purposes. The competent agency shall enable the party to give its opinion on all the facts presented in the investigation proceedings, as well as on any other facts on which a decision should be based.

102. An administrative proceedings case is concluded by a decision accompanied by an explanation and submitted to the party. Appeal is a regular legal remedy against the first instance decision, and can be excluded only by law. Extraordinary legal remedies established by the above-mentioned law can also be used against the final or valid decision.

103. The Yugoslav legal system also envisages the possibility of judicial review of administrative acts. Namely, under the terms established by the Federal Law on Administrative Proceedings, it is possible to institute administrative proceedings by filing a complaint with the competent court, which decides on the legality of the disputed administrative act. In addition to data on the plaintiff, the complaint should also contain the administrative act against which the complaint is directed, a short explanation as to why the remedy has been resorted to, and along which lines and to what extent the administrative act should be annulled.

104. The court is authorized to reject a complain in cases established by the law, or to annul an administrative act without submitting the complaint for reply. If it does not do so, the court submits the complaint with enclosures for reply to the defendant (the authority whose act is being disputed) and to the interested parties, if any. The reply must be provided within the period of time prescribed by the court, and the defendant shall provide the court with all submissions relevant to the case.

105. As a rule, in administrative proceedings court sessions are closed for the public, but the court can, at its discretion, or at a party's request, decide to hold an oral debate due to the complexity of the disputed matter, or if it finds it necessary to further clarify the case.

106. The court decides on a dispute on the basis of the facts established in administrative proceedings. If the court deems that the dispute cannot be settled on the basis of the facts established in administrative proceedings, it will pass a decision annulling the disputed administrative act, and order the agency in question to adopt a new administrative act, or it will establish the facts of the case by itself, and pass a judgement, i.e. decision, on that basis.

107. If an oral debate is held, the court will, immediately after the debate has been closed, pronounce its decision and the main reasons behind it. In complex cases the court may decide not to make an oral pronouncement, but it has to adopt a decision within eight days at the latest. The judgement, i.e. decision, must be accompanied by an explanation. The parties shall receive certified copies of the court decision.

108. Administrative proceedings are, as a rule, single-instance proceedings, but in certain cases a complaint against the court decision, or resort to certain extraordinary legal remedies is possible.

109. One of the three basic forms of judiciary control of the legality of administrative acts is the judiciary protection of the freedoms and rights guaranteed by the Constitution, against unlawful individual legal acts and illegal actions. This control includes all individual legal acts, not only administrative ones, but court intervention may be requested only if no other legal protection is provided. In this case, the competent agencies are: the Federal Court, in the case of individual acts of federal agencies and organizations; the Supreme Military Court, in the case of individual acts of military authorities, or the Supreme Court of a member Republic, in the case of acts of any other agency.

3. The Constitutional Court

110. The Constitution of the Federal Republic of Yugoslavia also envisages the possibility of the protection of rights and freedoms established by this legal act in the Federal Constitutional Court, and in the case of the republican constitutions, in the constitutional courts of the republics.

111. In addition to proceedings for the assessment of the constitutionality and legality of general enactments, proceedings can be instituted before the Federal Constitutional Court on the basis of a constitutional complaint for the protection of freedoms and rights guaranteed by the Constitution of the Federal Republic of Yugoslavia, proceedings on a ban on the work of political parties and citizens' associations, and proceedings on the violation of rights during elections for federal agencies.

112. A constitutional complaint may be submitted by any person who deems that his freedoms and rights as a human being and citizen established by the Constitution of the Federal Republic of Yugoslavia have been violated by an individual act or action of judiciary, administrative and other state agencies or enterprises or organizations in which public authority is vested, when no other legal protection has been provided. Apart from the damaged party, a person, engaged in the protection of freedoms and rights, as well as by the federal minister for human and minority rights, at the request of an individual or at his own discretion. If it establishes that a freedom or a right, as provided for by the Constitution, of man or a citizen has been violated by an individual act , Constitutional Court will annul that act and order the elimination of all the consequences that arose from it. If a right or freedom has been violated by an action, the Court will prohibit the further commitment of that action. If the freedoms and rights, as envisaged by the Constitution, of several persons have been violated by an individual act or action, and only some of those persons have filed a constitutional complaint, the Court's decision shall also apply to the persons who have not filed such a complaint.

113. A proposal for initiating the procedure of banning the work of political parties and citizens' associations may be submitted by a state agency responsible for the registration of political parties and citizens' associations, or the federal public attorney or the republican public attorney.

114. A complaint against a decision of the federal election commission rejecting or dismissing the objection against that decision, may be lodged by any voter, a candidate for federal deputy and proponents of candidates, or lists of candidates of a political party. If it accepts the complaint, the Court will

annul the election procedure or part of the election procedure, which will be clearly indicated. This Court is also responsible for conducting proceedings on any violation of rights in the course of elections for the President of the Republic, the President of the Federal Government, judges of the Federal Constitutional Court, the Federal Public Attorney and his deputy, judges of the Federal Court and the Governor of the National Bank of Yugoslavia.

B. Legal remedies available to individuals whose rights have allegedly been violated and compensation and rehabilitation mechanisms available to the victims

115. The Constitution of the Federal Republic of Yugoslavia and the Constitutions of the member republics guarantee the right to complaint or other legal remedies against a decision affecting rights or lawful interests. This right is regulated by all laws administering relevant proceedings - criminal, legal, administrative, petty offence proceedings. The Constitution of the Federal Republic of Yugoslavia introduces for the first time a new legal remedy - the constitutional complaint lodged with the federal Constitutional Court.

116. In criminal proceedings, a complaint may be lodged as a regular legal remedy against decisions of the first instance courts. The decision of the second instance court is as a rule valid, i.e., it is not possible to resort further to regular legal remedies against such a decision; it is, however, possible, under certain conditions prescribed by the law, to apply extraordinary legal remedies. These legal remedies are extraordinary by nature, and cannot be applied for any violation of the law. Extraordinary legal remedies that can be applied in criminal proceedings against valid decisions are the following: a request to repeat the proceedings, a request for extraordinary mitigation of punishment, a request for the protection of legality[3/] and a request for extraordinary review of a valid court decision.

117. A complaint is a regular legal remedy that can be lodged with a second instance court against decisions of first instance courts proceedings. The judgement and decision of the second instance court become valid and enforceable. Extraordinary legal remedies may be applied against valid decisions passed in legal proceedings, under conditions prescribed by the law.

118. A complaint is also allowed as a regular legal remedy against the first instance decisions of administrative agencies. In administrative proceedings the party has the right, in cases prescribed by the law, to lodge a special complaint against the conclusion of an administrative agency. The party can make an objection to an act of the administrative agency, although it does not have the character of a legal remedy. As a rule, objection as a legal means does not have a devolutionary effect. In other words, as a rule, the decision on an objection is not transferred to a higher instance authority; the objection is decided by the agency to which it is submitted. The party, as an interested person, can address to the agency responsible for administrative proceedings, an informal legal remedy (petition), indicating that his right has been violated. Extraordinary legal remedies in administrative proceedings include legal means

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3/ A motion for the protection of legality is an extraordinary legal remedy applicable against a legally effective judgement within a time period provided for by the law (usually six months from the date of entry into force of a judgement or decision) only if a law has been breached. This extraordinary legal remedy is inapplicable in the event that the facts of the situation have been erroneously or incompletely ascertained or substantial violations of procedural provisions established.

enabling administrative matters, concluded by a final or valid decision to be debated or decided on again, in order to eliminate possible irregularities or illegalities. These means are the following: renewal of the case, changing or annulling a decision relating to an administrative dispute, request for the protection of legality, annulling and setting aside a decision on the right to supervision, abolishing and revising the decision with the party's consent or at the party's request, extraordinary abolishing of a decision, proclaiming the decision null and void.

119. The right to compensation for damage and the right to rehabilitation in certain cases are guaranteed by the Federal Constitution and the Constitutions of the member republics. The mechanisms of compensation and rehabilitation are regulated by separate laws.

120. The Constitution of the federal State and the Constitutions of the member republics prescribe that a person convicted for a crime or deprived of freedom without cause is entitled to rehabilitation, compensation for damage by the State and to other rights prescribed by law.

121. The right to compensation for damage, rehabilitation and the exercise of other rights of persons convicted without just cause or deprived of freedom without reason is regulated by the Law on Criminal Proceedings. A person sentenced by a legally effective sentence has the right to compensation for damage caused by unjustified conviction if legal proceedings have been discontinued or if he has been legally acquitted as a consequence of the application of an extraordinary legal remedy. The right to compensation for damage is also enjoyed by a person who was deprived of freedom without reason, without legal conditions being fulfilled or if such conditions ceased to exist.

122. All types of damage are compensated for, to property and non-property, i.e. everything that is implied by damage according to property law. Administrative agencies and the court decide about the compensation . The procedure for compensation for damage is conducted by the administrative agency, and the court procedure is subsidiary. That is to say, the person who has suffered damage negotiates with the administrative agency concerning the existence of the damage and the type and value of the compensation. The provisions on general administrative proceedings are applied in this procedure. if the administrative agency fails to reach a decision within three months from filing a claim for compensation for damages, the person who has suffered damage may institute legal action for compensation for damages with the court.

123. If a case of unjustified conviction or unfounded deprivation of freedom of a person is publicized by the media thus damaging that person's reputation, at the request of the person, the court shall publish in a newspaper or other media a statement to the effect that the previous conviction was found to be unjustified or deprivation of freedom unfounded. If no such report is published in the media, at the request of the person who has suffered the damage, such a statement shall be sent to the person's employer, enterprise or other institution, as well as to any other institution if necessary in the interest of rehabilitation.

124. It should be noted that such moral reparation or compensation is also possible in cases in which there are no grounds to claim compensation, if the reputation of the convicted person was seriously impaired by the legal qualification of the act.

125. In the case of an unjustified sentence, the court which arbitrated at the first instance shall decide to annul the registration of the unjustified sentence in the criminal records. Data on the annulled registration may not be issued to anybody. The Law on Criminal Proceedings explicitly prescribes that a person allowed to study or copy documents referring to an unjustified sentence or unfounded deprivation of freedom, shall not use the data from the documents in a manner which would be harmful for the rehabilitation of the person the criminal proceedings were conducted against. This Law explicitly states that a person who loses his job or his status of a social insurance holder because of an unjustified sentence or unfounded deprivation of freedom has the right to recognition of the time lost due to unjustified sentence or unfounded deprivation of freedom as a period of service or of social insurance, as if he had been employed. The duration of unemployment due to such a sentence or deprivation of freedom through no fault of the person is also considered as such a period of employment.

126. The Law on Obligations regulates issues of compensation for pecuniary damage in the case of defamation and slander, as well as compensation for consequential damage. It regulates the liability to compensate for damage of any person who insults or makes or spreads false statements about another person, his past, his knowledge, capabilities or anything else, knowing they are false and thus causing material damage to that person.

127. In the case of violation of personal rights, the court may order publication of the sentence at the cost of the transgressor, or order the transgressor to withdraw the offensive statement, or any other measure which can accomplish the purpose of compensation.

128. For physical pain, spiritual pain due to disability, deformity, infamy, slander, violation of freedom or personal rights, death of a dear one, and fear, the court may, if it determines that the circumstances justify such a measure, rule a just pecuniary compensation, regardless of whether or not any compensation for material damage has been prescribed.

129. A person subjected to rape or sexual misconduct by fraud, compulsion or abuse of a relationship, and a person who was the object of any other criminal act against dignity or morality, is entitled to just pecuniary compensation.

130. If a person dies or sustains bodily injury or if property of an individual is destroyed or damaged during a public manifestation or demonstration or due to an act of violence or terror, the persons legally authorized to request compensation for the damage done may sue the state agencies responsible for the prevention of such damage.

131. The Federal Constitution and the Constitutions of the member republics guarantee the right to correction of published incorrect information which infringes upon somebody's rights or interests, as well as the right to compensation for damage on that basis.

132. The highest legal documents of the federal State and the member republics guarantee the right to compensation for material and consequential damage caused by an official or a state agency or organization with public authority through any illegal act or irregularity.

C. Are the rights stipulated by various instruments on human rights protected by the Constitution or by a special bill of rights, and if so, which provisions of the Constitution or the bill of rights apply to their violation and under what terms?

133. The rights stipulated by various United Nations instruments on human rights are protected by the Constitution of the Federal Republic of Yugoslavia, the Constitutions of the Republic of Serbia and of the Republic of Montenegro and by laws. There is no special bill of human rights and freedoms in the Federal Republic of Yugoslavia, since more than one third of the text of the Constitution is devoted to human rights and freedoms. Special federal and republican laws regulate the issues of the protection and violation of rights guaranteed by the Constitution, depending on the subject-matter of that particular law.

134. Article 67 of the Constitution of the Federal Republic of Yugoslavia prescribes as follows:

> "The freedoms and rights of man and the citizen shall be exercised, and duties fulfilled in conformity with the Constitution.
>
> "The manner in which individual rights and freedoms of man and the citizen are to be exercised may be prescribed by law when so provided for by the Constitution or when necessary for their implementation.
>
> "Abuse of the rights and freedoms of man and the citizen shall be unconstitutional and punishable.
>
> "The rights and freedoms recognized and guaranteed by the present Constitution shall enjoy the protection of the courts."

135. Article 12 of the Constitution of the Republic of Serbia prescribes as follows:

> "The freedoms and rights shall be exercised, and duties fulfilled in conformity with the Constitution, except when the Constitution provides for the conditions for exercising certain rights and freedoms to be determined by law.
>
> "The manner in which various rights and freedoms are to be exercised may be prescribed by law when necessary for their implementation.
>
> "Abuse of the rights and freedoms of man and citizens is unconstitutional and punishable as prescribed by law.
>
> "The freedoms and rights guaranteed and recognized by the Constitution shall enjoy the protection of the courts."

136. Article 16 of the Constitution of the Republic of Montenegro prescribes as follows:

> "Freedoms and rights are inviolable.
>
> "Everyone shall be obliged to respect the freedoms and rights of others.
>
> "Abuse of freedoms and rights shall be unconstitutional and punishable."

D. How have the human rights instruments been incorporated in the national legal system?

137. Upon ratification by the competent agencies and publication in an official medium, international instruments on human rights protection become a component part of the Yugoslav legal system.

138. The ratification of international human rights instruments is realized by law drafted b the Federal Government and adopted by the Federal Assembly. The President of the Federal Republic of Yugoslavia issues the documents on the ratified international treaties.

E. May the courts or administrative agencies invoke the provisions of various instruments on human rights, or implement them directly in practice, or must they be translated into internal laws or administrative regulations before the competent agencies can implement them?

139. Article 16 of the Federal Constitution prescribes as follows:

> "The Federal Republic of Yugoslavia shall fulfil in good faith the obligations arising from international treaties to which it is a contracting party.
>
> "International treaties which have been ratified and promulgated in conformity with the present Constitution and generally accepted rules of international law shall be a constituent part of the internal legal order."

140. Pursuant to the cited constitutional provision, ratified and promulgated human rights instruments become part of the legal system of the Federal Republic of Yugoslavia and are directly implemented as such.

F. Are there any institutions or national mechanisms in charge of monitoring the exercise of human rights?

141. The Federal Ministry for Human and Minority Rights, established for this very purpose in July 1992, is generally responsible for monitoring human rights. This Ministry engages in activities referring to: the exercise of human rights and rights of the citizen laid down by the Constitution of the Federal Republic of Yugoslavia, and especially the monitoring of the situation and administrative supervision of the implementation of federal regulations on human and minority rights; the exercise of minority rights guaranteed by the Federal Constitution, federal regulations and international treaties; the protection of human rights in conformity with humanitarian law, protection of personal property and other rights and freedoms of refugees from the areas of the former Socialist Federal Republic of Yugoslavia and freedoms of man and the citizen in conformity with the relevant international documents; cooperation and relations with Yugoslav and international institutions and agencies for the protection of the rights and freedoms of citizens; monitoring the position of members of the peoples of the Federal Republic of Yugoslavia abroad; institution of proceedings with competent agencies for the protection of rights and freedoms of man and the citizen.

142. The Federal Assembly has a Commission for the Freedoms, Rights and Duties of Man and the Citizen which is authorized to consider issues concerning the exercise of human rights and to adopt positions and reach conclusions in that

area. Similar commissions exist in the assemblies of member republics. A special body has been established in the Republic of Montenegro - the Republican Council for the Protection of National and Minority Rights - which monitors relations and phenomena of relevance for the exercise and respect of the rights of national and minority groups as laid down by the Constitution, and which informs the competent agencies and institutions of its observations, opinions and suggestions in order for appropriate measures to be taken. A procedure with the Council may be initiated by any citizen, organization or agency. The Council receives feedback information from the agencies and institutions, if a procedure was initiated on the grounds of its recommendations, initiatives and suggestions, on the steps that were taken accordingly.

143. Within their competence, the exercise of human rights is also supervised by the Federal Constitutional Court, regular courts, public prosecutors' offices and other state agencies. The idea of setting up a special institution to protect the rights of citizens (ombudsman) is still under consideration. There are also a number of non-governmental organizations, associations and movements in the country working for the protection of human rights.

IV. INFORMATION AND PUBLICITY

144. All international instruments for the protection of human rights ratified by Yugoslavia must be published in the official gazette and they are readily available to the public at large. Together with the official translation, they are regularly published in the original (English/French), and the official translation is published in the languages in official use in the Federal Republic of Yugoslavia. It is the duty of the courts and other state agencies directly to implement ratified and published international treaties and they are, therefore, obliged to be fully familiar with them. Major instruments are also published by certain ministries (as separate publications, in bulletins, etc.) and there are also several professional and scientific magazines financially supported by the State which, in conformity with their editorial policies, publish, interpret and publicize certain instruments. Television and a part of the press are also contributing to growing awareness of the rights included in various instruments concerning human rights. While it was functioning in Yugoslavia (Belgrade), the United Nations Information Centre contributed to dissemination of information on these instruments through its publications and by distributing United Nations publications. Since the introduction of sanctions against the Federal Republic of Yugoslavia, information from foreign sources has been significantly reduced, which is extremely harmful.

145. Certain federal ministries are under obligation to report on the human rights situation (the Federal Ministry of Foreign Affairs, Federal Ministry of Justice, Federal Ministry of Human and Minority Rights, and others), in conformity with their competence. These reports are verified through an official procedure, they are not subject to public debate and they are, as a rule, available to the media. As noted above, information and other input from abroad are nowadays very limited.